

School Education (PE) Department – Suits – APAT – C.A.No.585/2011 in O.A.No.2676/2010 filed by Smt. M.Rajyalakshmi, Junior Assistant (Retired) A.P.Baalala Academy now merged into Jawahar Bal Bhavan for inclusion of her name in G.O.Ms.No.3, Education (Prog.II.I) Department, dated.2-1-2001 in terms of G.O.Rt.No.113 dated 25-02-2003 to make her eligible for drawing pension on par with others - Extending the pensioner benefit to Smt. M. Rajyalakshmi, Junior Assistant who retired prior to issue of G.O.Ms.No.3 Education (Prog.II) Department dated 2-1-2011 on par with the employees of A.P.Baalala Academy whose services were provincialised – Orders – Issued.

EDUCATION (PE.PROG.II) DEPARTMENT

Read the following :

1. G.O.Ms.No.3, Education (Prog.II) Department, dated.02-01-2001
2. G.O.Rt.No.113, Education (Prog.II.1) Department dt.25-2-2003.
3. G.O.Ms.No.114, Education (Prog.II) Department dt.08-09-2003.
4. Govt.Memo.20590/SE.SP.R&E.1/2004, Education Deptt, dated.23-05-2005.
5. Orders of the Hon'ble APAT in O.A.NO.2676/2010,dated. 27-12-2010.
6. Govt.Memo No.1246/PE.Prog.II/A2/2010, Education Dept, dated.20-11-2010.
7. Govt.Memo No.1246/PE.PROG.II/A2/2010 , Edu Department, dated.01-04-2011.
8. Orders of the Hon'ble APHC in WP.No.33468 of 2011 dated.20-12-2011
9. Orders of the Hon'ble APAT in C.A.No.585/2011,dated.3-2-2012.
10. G.O.Ms.No.68, Education (PE.Prog.II) Department dated: 18-8-2012.

ORDER :

In the G.O. 1st read above, Government have provincialized the services of the staff of Andhra Pradesh Baalala Academy and integrated into Jawahar Bal Bhavan allowing pension instead of contributory provident fund. Based on the proposal received from the Director and Special Officer, Jawahar Bal Bhavan, Hyderabad, the name of Smt. M.Rajya Lakshmi who was retired from service on 30-4-2000, was included in the annexure vide G.O.2nd read above, making her eligible for pensionary benefits.

2. Accordingly, the Director and Special Officer, Jawahar Bal Bhavan, Hyderabad, has furnished the pension proposal to Government to release pensionary benefits. The Accountant General in his letter No.P4/IV/R2000/SP.864/2004-02/ADK/57,dated 26-4-2004, while returning the pension proposal belonging to Smt. M.Rajya Lakshmi, Junior Assistant (Retired) to Director and Special Officer, Jawahar Bal Bhavan, Hyderabad, has stated that, since the incumbent was retired from service on 30-4-2000, i.e. prior to issue of G.O.Ms.No.3, Education (Prog.II) Department dated 2-1-2001, it is not clear as to how she becomes eligible for any pensionary benefits referring amendment issued vide G.O.Rt.No.113, Education (Prog.II) Department dated 25-2-2003, as the benefits would accrue to those who would have retired on or after 02-01-2001 only and further stated that if the Government intension is to provincialize the services of all the employees of the then Andhra Pradesh Baalala Academy prior to issue of G.O. and make them eligible for pensionary benefits, necessary orders may be obtained and forwarded the same to his office along with pension proposals for necessary action. This is the basis for issuance of Government orders vide reference 4th read above.

3. Smt. Rajyalakshmi, Junior Assistant, (Retired) Jawahar Bal Bhavan, Hyderabad has filed O.A.NO.2676/2010 before the Andhra Pradesh Administrative Tribunal questioning the in action of Director and Special Officer, Jawahar Bal Bhavan, Hyderabad on her representation dated 17-3-2010. The Andhra Pradesh Administrative Tribunal in its interim orders, dt:27-4-2010 in O.A.No2676/2010 has *directed to forthwith consider and pass appropriate orders on the representation of the applicant, dt:17-3-2010*. Accordingly, the State Government has examined the request of the applicant Smt.M.Rajya Lakshmi, Junior Assistant (Retired) in consultation with Law and Finance Departments and issued order vide reference 6th read above informed to the Director and Special Officer, Jawahar Bal

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Bhavan, Hyderabad, that extending the pensionary benefits to Smt.M.Rajya Lakshmi is not feasible and the orders issued by the Government vide reference 4th read above stands holds good.

4. The Andhra Pradesh Administrative Tribunal in its order dated. 27-12-2010 has disposed of the said OA No.2676/2010 vide reference 5th read above. The operating part of the judgment is as follows:-

"But subsequently on the recommendations of the Director and Special Officer, Jawahar Bal Bhavan, Hyderabad through his references dated 17-6-2001, 2-9-2001 and 7-3-2002, the Government vide G.O.Ms.No.3, dated.2-1-2001 issued amendment stating that after Sl.No.9 at Sl.No.10 the name of the applicant is to be mentioned in the designation of the Junior Assistant from the date of entry into service in A.P.Baalala Academy i.e., on 3-1-1983 and stated that these orders will come into force from the issuance of G.O.Ms.No.3, dated.2-1-2001. Thus, by issuance of G.O.Rt.No.113, Dated.25-2-2003, the name of the applicant is included at Sl.No.10 in the Annexure appended to G.O.Ms.No.3, dated.2-1-2001 stating that she is also eligible for pensionary benefits and this amendment was also issued with the concurrence of Finance and Planning Department vide their U.O.No.37949/558/EBS.VI/2002 dated.30-12-2002 Thus the name of the applicant is included in G.O.Ms.No.3, dated.2-1-2001. Now, the respondents are contending that, by the date of the issuance of G.O.Ms No.3, the applicant was retired from service and so, she is not entitled for pensioner benefits as per G.O.Ms No.3, dt:2-1-2001 even though, G.O.Rt.No113,dt:25-2-2003, wherein an amendment was issued to G.O.Ms No.3, dt:2-1-2001 and the name of the applicant was included, as the applicant has already retired from service about 3 years prior to the date of issuance to G.O.Rt.No113, dt:25-2-2003. In spite of taking plea that the applicant has retired from service even prior to issuance of G.O.Ms No.3, the respondents accepted the recommendation of the Director and Special Officer of Jawahar Bal Bhavan and included the name of the applicant at Sl.No.10 in G.O.Ms.No.3, in the list of provincialized candidates, who are eligible for pensioner benefits, instead of contributory Provident Fund. Thus, it is clear that, knowing fully well that the applicant has already retired from service in the month of April, 2000, the respondents have included her name in G.O.Ms No.3 stating that, she is also eligible for the pensioner benefits, instead of contributory Provident Fund. Now, having included her name in the list, the respondents cannot take a stand that, by the date of issue of G.O.Ms No.3, the applicant has already retired from service and she is not entitled for the benefit of G.O.Ms.No.3 and they are prevented to take such a plea, the 1st and 2nd respondents are directed to release the pensioner benefits to the applicant as per her eligibility as per G.O.Ms.No.3, dt:2-1-2001 and pass appropriate orders, within a period of 4 weeks from the date of receipt of a copy of this order. The O.A, is disposed of accordingly.

5. The Director and Special Officer, Jawahar Bal Bhavan, Hyderabad in her letter dated.24-05-2011 has recommended that Smt. M.Rajyalakshmi, Junior Assistant (Retired) is only the eligible candidate excluded for pensionary benefits since inception of the Andhra Pradesh Baalala Academy till its integration with Jawahar Bal Bhavan who had served for more than 17 years.

6. The Director, Jawahar Bal Bhavan has filed WP.No.33468/2011 against the orders of the A.P. Administrative Tribunal. The Hon'ble A.P. High Court in its order dated.20-12-2011 in W.P.No.33468/2011 has dismissed the W.P. with the following observations at admission stage:

In the facts and circumstances and the chronology of events adverted to above, no case is made out for interference with the impugned order of the Tribunal. In view of the law laid down in L.Chandra Kumar Vs Union of India, the relevant facts are required to be adjudicated by the Tribunal on Consideration of the applicable provisions of the law in the first instance and it is not open to a litigant to canvass part of the case before the Tribunal and in a judicial review there against urge that there are other factors which have a bearing on the outcome of litigation. Since, G.O.Ms.No.114 Dated. 8-9-2003 was not brought to the notice of the Tribunal, the petitioners are not entitled to plead that in view of the order issued in G.O.Ms.No.114, the first respondent/applicant is not entitled to the benefits of provincialization and consequent

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pension. Even otherwise since, in G.O.Ms.No.114, amendment to the provisions of G.O.Ms.No.3 were issued in exercise of the executive power of the state and without notice and opportunity to the applicant/1st respondent having the effect of depriving her of the benefits accrued consequent on the amendatory exercise of G.O.Rt.No.113, the amendment cannot be operationalised as it would violate the principles of natural justice.

For the plurality of reasons recorded above, the writ petition must fail and it is accordingly dismissed at the stage of admission. No costs.

7. Smt.M.Rajyalakshmi, Junior Assistant (Retired) A.P.Baalala Academy now merged in Jawahar Bal Bhavan, has filed C.A.No.585/2011 in O.A.No.2676/2010 for non compliance of the orders of the Andhra Pradesh Administrative Tribunal dated.27-12-2010.

8. The Accountant General in his letter No.P4/IV/R 2000/SP. 864/2004-02/ADK/57, Dt:26-04-2004, while returning the pension proposal belongs to Smt. M.Rajya Lakshmi, Junior Assistant (Retired) to Director and Special Officer, Jawahar Bal Bhavan, Hyderabad has stated that, since the incumbent was retired from service on 30-4-2000 i.e, prior to issue of G.O.Ms.No.3, Education (Prog.II.I) Department, dated:02-01-2001, it is not clear as to how she becomes eligible for any pensionary benefits referring to amendment issued vide G.O.Rt.No.113, Education (Prog.II.I)Department, dated 25-02-2003, as the benefits would accrue to those who would have retired on or after 02-01-2001 only and further stated that if the Government intension is to provincialise the services of all the employees of the then Andhra Pradesh Baalala Academy prior to issue of G.O and make them eligible for pensionary benefits, necessary orders may be obtained and forwarded the same to his office along with pension proposals for necessary action. This is the basis for issuance of Government orders vide reference 4th read above.

9. In light of the orders of Andhra Pradesh Administrative Tribunal and A.P.High Court and considering the objections raised by the Accountant General, Andhra Pradesh, Hyderabad, the report of the Director and Special Officer, JBB, Hyderabad and the amendment made vide G.O.10th read above, the Department has decided to implement the judgment of the Andhra Pradesh Administrative Tribunal in OA.No.2676/2010 dated. 27-12-2010 i.e., sanction of pensionary benefits to Smt. Rajyalakshmi, Junior Assistant (Retired). JBB on par with the other employees who retired prior to issue of G.O.Ms.No.3, Education (Prog.II.I) Department, dated:02-01-2001.

10. After careful consideration of the entire issue and the amendment made to the G.O.Ms.No.3, Education (Prog.II) Department dated 2-1-2001 vide reference 10th read above, Government hereby extend the benefit of provincialisation of services of Employees of A.P.Baalala Academy to Smt.M.Rajya Lakshmi, Junior Assistant (Retired) who retired prior to issue of G.O.Ms.No.3, Education (Prog.II.I) Department , dated:02-01-2001 as a special case to comply with the orders of Andhra Pradesh Administrative Tribunal in OA.No.2676/2010.

11. The Director and Special Officer, Jawahar Bal Bhavan, Hyderabad, is requested to take necessary action accordingly.

12. This order issues with the concurrence of Finance (Pension) Department vide their U.O.No.4264/74/A1/Pen.II/2012, dated 4-4-2012.

(BY ORDER IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

CHANDANA KHAN
SPECIAL CHIEF SECRETARY TO GOVERNMENT (P.E) (FAC)

To
The Director & Spl. Officer, Jawahar Bal Bhavan, Hyderabad.
Copy to : The Accountant General, AP Hyderabad.
The Director of Treasuries & Accounts, AP, Hyderabad.
The General Administration (Ser.F) Department
The Finance (Pen) Department.
The Law (A) Department.
Sf/sc

:: FORWARDED :: BY ORDER ::

SECTION OFFICER